



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 11, 1992

Mr. Joe Ramirez
Director, Materials Management
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR92-539

Dear Mr. Ramirez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 17183.

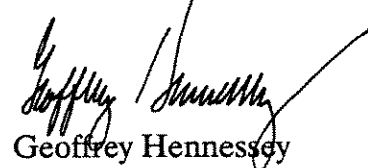
The Capital Metropolitan Transportation Authority (Capital Metro) received an open records request for a copy of all proposals it received by two particular bidders in response to a request for proposals (RFP) to support conversion of Capital Metro's vehicles to alternative fuels. You state that Capital Metro has accepted the proposal submitted by one of the competing entities, but the negotiations to draft an agreement with the winning proposer have not been concluded. You contend that the requested information is excepted from public disclosure by, *inter alia*, Open Records Act section 3(a)(4).

Section 3(a)(4) excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 3(a)(4) is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. *See, e.g.*, Open Records Decision No. 463 (1987). Governmental bodies may withhold this type of information while the governmental officials are in the process of interpreting the proposals and the competitors are free to furnish additional information. *Cf.* Open Records Decision No. 170 (1977). Section 3(a)(4) protects bids and proposals from disclosure until a contract is in effect. Open Records Decision No. 306 (1982). Because the contract is not yet finalized, you may withhold the submitted proposals pursuant to section 3(a)(4).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with

a published open records decision. If you have questions about this ruling, please refer to OR92-539.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Geoffrey Hennessey', is written over the typed name.

Geoffrey Hennessey
Assistant Attorney General
Opinion Committee

GH/RWP/lmm

Ref.: ID# 17183

Enclosures: Submitted documents

cc: Mr. Michael B. Barrett
President and CEO
Tren Fuels, Inc.
520 Austin Centre
701 Brazos
Austin, Texas 78701
(w/o enclosures)